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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91120453
Party	Defendant CHARLES BROWNING WILSON
Correspondence Address	Robert Steckman The Law office of Robert Steckman 111 John Street, Suite 800 New York, NY 60606
Submission	Other Motions/Papers
Filer's Name	Robert Steckman
Filer's e-mail	robert@steckmanlaw.com
Signature	/Robert Steckman/
Date	07/24/2006
Attachments	91120453 Applicants xexam.pdf (10 pages)(480879 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIALS AND APPEALS BOARD

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HEARST COMMUNICATIONS, INC. and	:	Opposition No. 91120453
HEARST MAGAZINES PROPERTY, INC.	:	
	:	
Opposers,	:	
	:	
v.	:	
	:	
CHARLES BROWNING WILSON	:	
	:	
Applicant	:	
-----X		

**APPLICANT'S WRITTEN CROSS-EXAMINATION
TO OPPOSERS HEARST COMMUNICATIONS, INC. and
HEARST MAGAZINES PROPERTY, INC.**

Applicant CHARLES BROWNING WILSON ("Cosmo" or "Applicant") hereby requests, pursuant to order of the Board, dated, April 4, 2006, that Opposers, HEARST COMMUNICATIONS, INC. and HEARST MAGAZINES PROPERTY, INC. (collectively "Hearst") answer the following questions fully and separately in writing and under oath on or before August 2, 2006.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term "person" as well as pronouns referring thereto shall include juristic persons as well as natural persons.
2. As used herein, the term "document" includes any tangible thing from or on which information can be stored, recorded, processed, transmitted, inscribed, or memorialized in any way by any means regardless of technology or form, including, but not limited to, any and all digital, tape, film, fiche, magnetic and/or optical media.
3. "Applicant" means and shall refer to Applicant herein, Charles Browning "Cosmo"

Wilson ("Cosmo").

4. "Applicant's Mark" means and shall refer to COSMO, COSMO.COM and any mark similar thereto used by Applicant.

5. "Applicant's Goods and Services" mean and shall refer to Applicant's website and the service thereof under the designation COSMO, COSMO.COM or any mark similar thereto.

6. "Opposers" means and shall refer to the Opposers herein, HEARST COMMUNICATIONS, INC. and HEARST MAGAZINES PROPERTY, INC. (hereinafter collectively referred to as "Hearst"), each of its predecessors in interest, associates, predecessor and each of its members, officers, directors, employees, agents and attorneys, and each person acting on its behalf or under its control.

7. "Opposer's Mark" means and shall refer to U.S trademark registration No. 1843656, and any mark similar thereto used by Opposers.

8. "Opposer's Goods or Services" means and shall refer to Opposers goods, products or services sold or offered for sale under the designation COSMO, or any mark similar thereto.

9. Where a person required to be identified is a juristic person, state, to the extent known, its full name, principal place of business, present or last known address, and state and date of incorporation or where authorized to do business, if any.

10. Where a person required to be identified is a natural person, state the person's full name, present or last known address, present or last known title and place of employment, and present or last known business address.

11. Where a product and/or service is required to be identified, state the following information:

(a) the trade name, trademark, and/or brand name of the product or service

under which the product and/or service is sold or offered for sale or otherwise distributed;

- (b) the generic name of the product and/or service;
- (c) the inclusive dates during which the product and/or service has been has been sold and/or offered for sale.

12. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate the answer to a question.

13. As used herein, the terms "all" and "each" shall be construed as each and all to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

14. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request **all** responses that might otherwise be construed to be outside of its scope.

15. As used herein, the term "date" means the exact date if known or, if not known, the approximate date.

16. As used herein, the term "communication" means any form of communication whether written, oral, digital, or otherwise including but not limited to letters, memoranda, telephone memoranda, notes, electronic mail, inter-office memoranda, telephone conversations, conference discussions, meeting minutes, and any other form of communication between two or more parties.

17. Where an instance is required to be identified, state:

- (a) the identity of each person who participated in or who has knowledge of the instance;

- (b) the circumstances surrounding the instance; and
- (c) the date or inclusive dates during which the instance occurred.

18. Where a document is required to be identified, state:

- (a) The nature of the document (e.g. — but not limited to — letter, e-mail, memorandum, note, phone log, spread sheet, etc.)
- (b) The writer of the document;
- (c) The recipient of the document;
- (d) The date the document was created;
- (e) The date the document was transmitted;
- (f) The location of the document.

18. With respect to each question to which an objection is made, state the specific grounds of the objection and answer any portion of the question which does not fall within the stated objection.

19. In answering these questions, Opposer is requested to furnish all information, however obtained, which is available to Opposer, and information known by or in Opposer's possession or in the possession of Opposer's agents and its attorneys.

20. For the convenience of the Board and counsel, it is requested that each question be set forth immediately preceding the answer thereto.

APPLICANT'S QUESTIONS TO OPPOSERS

5. Identify all Opposers' Goods and Services that currently use the exact name or designation "COSMO", listing the years during which such Opposers' Goods and Services were first used under such name and/or designation.
6. Identify all Opposers' Goods and Services that formerly used the exact name or designation "COSMO", listing the years during which such Opposers' Goods and Services first used such name or designation.
7. Identify the last use of Opposers' Mark in commerce.
8. Explain the basis for failing to file a renewal of Opposers' Mark pursuant to Section 8 of the Lanham Act, and the subsequent cancellation of such mark by the PTO on July 13, 2001.
9. Explain how Applicant's Mark conflicts with Opposers' Mark despite the cancellation and/or abandonment of such mark by Opposers.
10. Explain how Applicant's Mark conflicts with any other mark which is not registered with the PTO, and which is owned by Opposers.
11. Explain how Applicant's Mark conflicts with Opposers various registered trademarks for the phrase 'COSMOPOLITAN'.
12. Explain how Applicant's Mark conflicts with any other registered mark owned by Opposers (except those marks owned by Opposers which are identified in questions 5, 6 and 7).
13. Describe in detail all of Opposers' efforts to prevent Applicant's use of Applicant's Mark prior to Opposers' filing of their Notice of Opposition with the Trademark trials and Appeals Board.
14. If the answer to 9 is 'none' or similar negative designation, please describe the basis for such failure in light of Opposers' knowledge of Applicant's Mark and other third-parties use of 'cosmo.com', as demonstrated by the article published by ZDNet.com, dated November 25, 1996, (a copy of which has previously been produced to Opposers during discovery) in which a Ms. Bonnie Fuller therein identified as an employee of Opposers, indicates that 'the matter has been referred to [Opposers] attorneys'.
15. Explain the basis for the selection and adoption of the mark or designation 'COSMO' as used in Opposers Goods and Services.
16. Identify the First use of the designation 'COSMO' by Opposers;
17. Identify whether Opposers have abandoned all use of Opposers' Mark. If no, explain the basis of same in light of Opposers' failure to file a renewal as required by Section 8 of the

Lanham Act.

18. Identify all examples of actual use in commerce of Opposers Mark on or after July 13, 2001.
19. Identify any and all packaging, labels, advertising, marketing, promotional and published material bearing the designation COSMO in connection with each type of Good and/or Service (including, but not limited to, Opposers' Goods and Services) offered for sale and/or sold by Opposers under the designation COSMO.
20. Identify any and all media outlets through or by which Opposers has advertised, promoted, published and/or marketed its goods and/or services under the specific designation 'COSMO'.
21. Identify any and all media through or by which Opposers have advertised, promoted, published and/or marketed its goods and/or services in connection with Opposers' Mark since FY 2000.
22. Identify all the customers to whom Opposers has sold or distributed products and/or services (including, but not limited to, Opposers' Goods and Services) under the designation COSMO; for the purposes of this question, "customers" shall not mean individual consumers of Opposers' Goods and/or Services (i.e., the individual purchasers of Opposers's Products) but shall mean each and every distributor, vendor, retail location, wholesale outlet, store, mail order house or establishment, internet based outlet or other venue, for the sale or offer of sale of Opposers' Goods or Services or offered for sale under the specific designation 'COSMO'.
23. Identify and describe all efforts by Opposers since on or after FY 1995 to prevent any and all third-parties from using: (I) the designation 'COSMO', (II) the uniform resource locator www.cosmo.com and/or (III) Opposers' Mark.
24. Identify and describe all efforts by Opposers to prevent the entity known as Kozmo.com, Inc., 80 Broad Street New York NEW YORK 10004 from using and/or registering the mark 'KOZMO COM' under U.S trademark registration No. 2544167 . If none, please explain the basis for such decision.
25. Identify and describe all efforts by Opposers to prevent the entity known as Cosmo Corporation, 30201 Aurora Road, Cleveland OH 44139, from using and/or registering the mark 'COSMO' under U.S trademark registration No.s 3035236 and 3035237, and said entities pending trademark applications under serial No.s 78667292 and 78667304. If none, please explain the basis for Opposers decision to ignore such use in each particular instance.
26. Identify and describe all efforts by Opposers to prevent the entity known as Trek Bicycle Corporation, 801 West Madison St Waterloo WI 53594, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 2576084. If none, please explain the basis Opposers decision to ignore such use.

27. Identify and describe all efforts by Opposers to prevent the entity known as Antista Fairclough Design, Ltd. II, Sixty Four Lenox Pointe, NE Atlanta GA 30324, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 2305218. If none, please explain the basis Opposers decision to ignore such use.
28. Identify and describe all efforts by Opposers to prevent the entity known as Complete Business Solutions, Inc. 36205 W. Twelve Mile Road, Suite 250 Farmington Hills Michigan 48334-3339 and/or Covansys Corporation, 36205 W. Twelve Mile Road, Suite 250 Farmington Hills Michigan 48334-3339, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 2169138. If none, please explain the basis Opposers decision to ignore such use.
29. Identify and describe all efforts by Opposers to prevent the entity known as Draiswerke GmbH, Speckweg 43-51 D-68305 Mannheim, GERMANY and/or Buhler GmbH, 38114 Braunschweig, Germany, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 2179422. If none, please explain the basis Opposers decision to ignore such use.
30. Identify and describe all efforts by Opposers to prevent the entity known as Cosmopolitan Textile Company, Road Five Industrial Estate Winsford Cheshire ENGLAND CW7 3QU, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 2557509. If none, please explain the basis Opposers decision to ignore such use.
31. Identify and describe all efforts by Opposers to prevent the entity known as Koh-i-noor Rapidgraph, Inc. 100 North St. Bloomsbury NJ 08804 and/or Cosmolab, Inc., 1100 Garrett Road Lewsburg Tennessee 37091, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 1045202. If none, please explain the basis Opposers decision to ignore such use.
32. Identify and describe all efforts by Opposers to prevent the entity known as Cosmo Instruments Co., Ltd. 2974-23, Ishikawa-cho, Hachioji Tokyo Japan, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 1459105. If none, please explain the basis Opposers decision to ignore such use.
33. Identify and describe all efforts by Opposers to prevent the entity known as Cosmo Oil Co., Ltd. 1-1, Shibaura 1-chome Minato-ku, Tokyo 105 Japan, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 1696750. If none, please explain the basis Opposers decision to ignore such use.
34. Identify and describe all efforts by Opposers to prevent the entity known as Sanyo Tecnica USA, Inc. 7215 E 21 Street, Suite D, Indianapolis IN 46219, from using and/or registering the mark 'COSMO' under U.S. PTO registration No. 1977306. If none, please explain the basis Opposers decision to ignore such use.
35. Identify and describe all efforts by Opposers to prevent the entity known as Cosmo

which Opposers first conceived of using the term COSMO in connection with Opposers's Goods and/or Services.

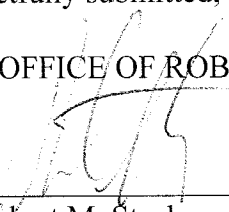
46. With respect to the date that Opposers first conceived of use of the term COSMO as stated in response to Question No. 45, state:
- a. The identity of the person(s) who conceived of such term;
 - b. Whether the person(s), as identified in response to Question No 41(a), were officers, employees, or representatives of, or were in any way affiliated with Opposers, and if so, identify the title, position or affiliations of each;
 - c. From where such term was derived and the significance or meaning of the term COSMO;
 - d. Describe in detail the process or method used by Opposers to select the designation COSMO or any mark(s) similar thereto for Opposers's goods and/or services; and
 - e. The reasons for selection of such term.
47. State whether Opposers or any third party maintains a web site in connection with which Opposers's Goods and/or Services sold under the designation COSMO are promoted, advertised and/or otherwise referenced, and if so, identify:
- a. The domain name/address via which such web site can be accessed;
 - b. The person or persons responsible for developing and maintaining each such web site; and
 - c. The date that each such web site was developed and went "on-line."
48. For each year, beginning with Opposers's date of first use of the designation COSMO, through the present, set forth a detailed list of all the goods and services as used in commerce in connection with which Opposers' use of the designation COSMO.
49. State whether Opposers has, at any time, licensed others or intends to license others to use term COSMO or any mark similar thereto, and if so, identify:
- a. The licensee(s);
 - b. The periods of each such license;
 - c. Each type of the goods and/or services involved in each such license;
 - d. The amount of revenue generated from the sale of goods or services on which the licensed mark(s) have been used in commerce by each such licensee for each year each such license is or was in effect;
 - e. The amount of revenue received by Opposers from each such license for
 - f. each year each such license is or was in effect; and
 - g. How Opposers controlled and/or controls the quality of the Licensee's publications, goods or services on which or in connection with Opposers's licensed marks are used.

50. For each year, beginning with Opposers's date of first use of the designation COSMO, through the present, set forth the total amount of money that Opposers has spent on advertising of any goods and/or services under the designation COSMO.
51. Identify all reports, memos, recommendations or opinions obtained by Opposers that relate, in any way, to the likelihood of confusion between Opposers's mark and Applicant's Mark.
52. If any question asks for information which could at some time have been answered by producing, consulting or referring to documents which are not longer in existence, identify each question for which that is the case and with respect to each such question:
 - a. Identify what information was maintained;
 - b. Identify all the type(s) of documents that contain such information;
 - c. State the time period during which such documents were maintained;
 - d. State the circumstances under which such documents ceased to exist;
 - e. State the date when such documents cease to exist;
 - f. Identify all persons having knowledge of the circumstances under which such documents ceased to exist; and
 - g. identify all persons who have knowledge or had knowledge of the documents and the contents thereof.
53. Identify each and every person who assisted Opposers in answering these questions and/or provided documents or other things responsive to these questions and to Applicant's Request for Production of Documents served herewith.

Dated: New York, New York
July 3, 2006

Respectfully submitted,

LAW OFFICE OF ROBERT STECKMAN



By: Robert M. Steckman
Attorney for Applicant
111 John Street, Suite 800
New York, NY 10038
(212) 313-9898

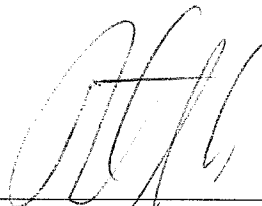
UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIALS AND APPEALS BOARD

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HEARST COMMUNICATIONS, INC. and	:	Opposition No. 91120453
HEARST MAGAZINES PROPERTY, INC.	:	
	:	
Opposers,	:	CERTIFICATE OF SERVICE
	:	
v.	:	
	:	
CHARLES BROWNING WILSON	:	
	:	
Applicant	:	
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It is hereby certified that a true copy of the within Applicant's Written Cross-examination To Opposers Hearst Communications, Inc. and Hearst Magazines Property, Inc., was served upon counsel for Opposers on July 3, 2006, by first class mail, postage prepaid, at the address set forth below:

Ted Davis
Kilpatrick Stockton, LLP
Attorneys for Opposers
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

Dated: New York, New York
July 3, 2006



Robert M. Steckman